



DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF CHIROPRACTIC EXAMINERS  
STATUTES AND REGULATIONS

AS OF JULY 2002

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**CHIROPRACTIC EXAMINERS  
CHAPTER 1.  
GENERAL PROVISIONS**

**ARTICLE 1. GENERAL PROVISIONS RELATING TO ALL PROFESSIONS AND OCCUPATIONS AFFECTED BY THIS SUBTITLE**

45:1-1. Persons entitled to practice, etc. under former laws unaffected

**ARTICLE 1. GENERAL PROVISIONS RELATING TO CERTAIN STATE BOARDS OF REGISTRATION AND EXAMINATION**

45:1-1. Persons entitled to practice, etc. under former laws unaffected

Any person now entitled to practice any profession or to engage in any occupation, governed or regulated by the provisions of this title by virtue of any prior law, shall continue to be entitled to practice or engage in the same, notwithstanding the enactment of this title, and the validity of any license or other authorization to practice any such profession or to engage in any such occupation, heretofore issued to any person under any prior law, or of any proceeding pending to obtain such a license or authorization shall not be affected by the enactment of this title but all such persons shall in all other respects be subject to the provisions of this title.

45:1-2. Repealed by L.1971, c. 60, § 5, eff. March 25, 1971

45:1-2.1. Professional boards and commissions; application of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, and the State Board of Public Movers and Warehousemen.<sup>1</sup>

<sup>1</sup> Abolition of State Board of Public Movers and Warehousemen and transfer of functions, powers and duties to the Division of consumer Affairs. See Reorganization Plan No. 008-1998, set out under § 45:14D-4.

45:1-2.2. Appointment of members by governor; public members; member from department in executive branch; quorum; vote necessary for action

a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or

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subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.

b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: The New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and

Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Social Work Examiners, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family Therapy Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c. 60 (C. 45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.

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d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

#### 45:1-2.3. Qualifications; rights and duties

Such additional members:

a. Need not meet the educational and professional requirements for membership on such boards or commissions as provided in the several statutes establishing such boards and commissions; and

b. Shall be voting members subject to the same rights, obligations and duties as other members of their respective boards or commissions.

#### 45:1-2.4. Effect of act on term of member in office

Nothing in this act shall affect the right of a board or commission member in office on the effective date of this act to continue to serve for the term for which he was appointed.

#### 45:1-2.5. Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms of employment; offices and meeting places

With respect to the boards or commissions designated in section 1 of P.L.1971, c. 60 (C.45:1-2.1), except as otherwise provided in subsection d. of this section, and notwithstanding the provisions of any other law:

a. The officers and members shall be compensated on a per diem basis in the amount of \$25.00 or an amount to be determined by the Attorney General, with the approval of the State Treasurer, but not to exceed \$100.00 per diem or \$2,500.00 annually, and shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. Such moneys shall be paid according to rules and regulations promulgated by the Attorney General.

b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.

c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such office or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.

d. The compensation schedule for members of boards and commissions provided in subsection a. of this section shall not apply to the members of the New Jersey Real Estate Commission, who shall be compensated pursuant to R.S.45:15-6 or to members of the State Board of Medical Examiners who shall receive compensation of \$150 per diem.

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#### 45:1-2.6. Inapplicability of act to rights under civil service or any pension law or retirement system

Nothing in this act shall deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service,<sup>1</sup> or any pension law or retirement system.

<sup>1</sup> Now title 11A.

#### 45:1-3. Expenses of boards paid from income; surplus paid to state treasurer; accounts

Each member of the boards mentioned in section 45:1-2<sup>1</sup> of this title shall be entitled to his actual traveling and other expenses incurred in the performance of his duties, which sum shall be paid from the license fees and other sources of income of such boards. Such boards shall also be entitled to expend from their income such sums as shall be necessary to defray all proper expenses incurred by them in the performance of their duties, including the compensation of any of their officers or agents whom they are authorized to compensate. Such boards, if authorized to collect an annual registration or license fee from persons licensed by them, may retain in their treasuries the fees so collected and use the same for the purpose of defraying the expenses of securing evidence against and prosecuting persons violating the provisions of the laws with the enforcement of which they are charged, or, in case the revenue of the boards from other sources shall be insufficient to pay the salary of their secretaries and their other expenses, such fees may be expended for such purposes. Such boards shall be entitled to retain, in addition to the above, at least one hundred dollars in their treasuries for the purpose of preparing and holding their examinations. On or before October thirty-first in each year such boards shall pay to the state treasurer all moneys remaining in their treasuries, except as above stated, which sum, when so paid, shall form a part of the state fund. Such boards shall keep accurate accounts of their receipts and expenditures, which accounts shall be subject to audit by the state comptroller.

<sup>1</sup> Repealed; see, now, §§ 45:1-2.1, 45:1-2.2.

#### 45:1-3.1. Application of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, and the State Board of Social Work Examiners.

#### 45:1-3.2. Charges for examinations, licensures and other services; establishment or change by rule; standards

Notwithstanding the provisions of Title 45 of the Revised Statutes or any other law to the contrary, any board or commission named in section 1 of this supplementary act<sup>1</sup> may by rule establish, prescribe or change the charges for examinations, licensures and other services it performs, which rule shall first be approved by the head of the

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department to which such board or commission is assigned and shall be adopted in accordance with the provisions of the “Administrative Procedure Act,” P.L.1968, c. 410 (C. 52:14B-1).

Any board’s or commission’s charges established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the board or commission in the performance of its duties but such charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

<sup>1</sup>N.J.S.A. § 45:1-3.1.

#### 45:1-3.3. Administrative fees charged by boards; modification

The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.). For purposes of this section, “administrative fees” are charges assessed to licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

#### 45:1-4. Salary of secretary

The secretary of each of the boards mentioned in section 45:1-2<sup>1</sup> of this title, whether or not a member thereof, shall be entitled to receive such reasonable salary or compensation for his services as secretary as shall be fixed by such boards, which shall be paid by the boards from their receipts, unless an appropriation is made for the expenses of such boards, in which case the same shall be paid from such appropriation.

<sup>1</sup> Repealed. See, now, §§ 45:1-2.1, 45:1-2.2.

45:1-5, 45:1-6. Repealed by L.1979, c. 432, § 4, eff. Feb. 14, 1980

#### 45:1-7. Professional or occupational licenses or certificates of registration; duration; expiration; exceptions; fees

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors and certificates of registration issued to qualified journeymen electricians pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable; provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after the effective date of this act, shall expire and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue.

The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

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#### 45:1-7.1. Application to holders of professional or occupational licenses

a. Notwithstanding any other act or regulation to the contrary, the provisions of this section and sections 6 and 7 of P.L.1999, c. 403 (C.45:1-7.2 et al.) shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L. 1978, c. 73 (C.45:1-15), who seeks renewal of that license or certificate.

b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L.1978, c. 73 (C.45:1-15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.

c. Any individual who continues to practice with an expired license or certificate of registration or certification after 30 days following its expiration date shall be deemed to be engaged in unlicensed practice of the regulated profession or occupation, even if no notice of suspension has been provided to the individual.

d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated within five years following its date of expiration upon submission of a renewal application and payment of an additional reinstatement fee. An applicant seeking reinstatement of a license or certificate suspended pursuant to this section more than five years past its expiration date shall successfully complete the examination required for initial licensure, registration or certification and submit a renewal application and payment of an additional reinstatement fee.

e. A board specified in section 2 of P.L. 1978, c. 73 (C. 45:1-15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at least 60 days prior to the expiration of the license or certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

#### 45:1-7.2. Reinstatement

A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L.1999, c. 403 (C.45:1-7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

a. Payment of all past delinquent renewal fees;

b. Payment of a reinstatement fee;

c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and

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d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license or certificate of registration or certification.

#### 45:1-7.3. Renewal applications

a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in professional or occupational practice within the State.

b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license, registration or certification, if applicable.

#### 45:1-8. Contractors; application of § 45:1-9

The provisions of this act apply to the following classes of contractors:

- a. Tree experts, certified pursuant to P.L.1940, c. 100 (C. 13:1-28 et seq.<sup>1</sup>);
- b. Home repair contractors, licensed pursuant to P.L.1960, c. 41 (C. 17:16C-62 et seq.);
- c. Electrical contractors, licensed pursuant to P.L.1962, c. 162 (C. 45:5A-1 et seq.);
- d. Master plumbers, licensed pursuant to P.L.1968, c. 362 (C. 45:14C-1 et seq.);
- e. Well drillers, licensed pursuant to P.L.1947, c. 377 (C. 58:4A-5 et seq.); and
- f. Any class of contractors who hereafter are licensed by the State.

<sup>1</sup> Renumbered C. 45:15C-1 to 45:15C-10.

#### 45:1-9. Indication of license or certificate number on contracts, bids and advertisements

Any contractor licensed by the State shall indicate his license or certificate number on all contracts, subcontracts, bids and all forms of advertising as a contractor.

#### 45:1-10. Disclosure of laboratory payments on bills to patients and third party payors

It shall be unlawful for any person licensed in the State of New Jersey to practice medicine or surgery, dentistry, osteopathy, podiatry or chiropractic to agree with any clinical, bio-analytical or hospital laboratory, wheresoever located, to make payments to such laboratory for individual tests, combination of tests, or test series for patients unless such person discloses on the bills to patients and third party payors the name and address of such laboratory and the net amount or amounts paid or to be paid to such laboratory for individual tests, combination of tests or test series.

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45:1-10.1. Claims for third party payment; licensed health care professional; responsibility for filing

Effective 12 months after the adoption of regulations establishing standard health care enrollment and claim forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c. 154 (C.17B:30-23), a health care professional licensed pursuant to Title 45 of the Revised Statutes is responsible for filing all claims for third party payment, including claims filed on behalf of the licensed professional's patient for any health care service provided by the licensed professional that is eligible for third party payment, except that at the patient's option, the patient may file the claim for third party payment.

a. In the case of a claim filed on behalf of the professional's patient, the professional shall file the claim within 60 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c. 154 (C.17B:30-23).

b. In the case of a claim in which the patient has assigned his benefits to the professional, the professional shall file the claim within 180 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c. 154 (C.17B:30-23). If the professional does not file the claim within 180 days of the last date of service for a course of treatment, the third party payer shall reserve the right to deny payment of the claim, in accordance with regulations established by the Commissioner of Banking and Insurance, and the professional shall be prohibited from seeking any payment directly from the patient.

(1) In establishing the standards for denial of payment, the Commissioner of Banking and Insurance shall consider the good faith use of information provided by the patient to the professional with respect to the identity of the patient's third party payer, delays in filing a claim related to coordination of benefits between third party payers and any other factors the commissioner deems appropriate, and, accordingly, shall define specific instances where the sanctions permitted pursuant to this subsection shall not apply.

(2) A professional who fails to file a claim within 180 days and whose claim for payment has been denied by the third party payer in accordance with this subsection may, in the discretion of a judge of the Superior Court, be permitted to refile the claim if the third party payer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of notification of denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to file the claim with the third party payer within 180 days.

c. The provisions of this section shall not apply to any claims filed pursuant to P.L.1972, c. 70 (C.39:6A-1 et seq.).

d. A health care professional who violates the provisions of subsection a. of this section may be subject to a civil penalty of \$250 for each violation plus \$50 for each day after the 60th day that the provider fails to submit a claim. The penalty shall be sued for and collected by the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

45:1-11. Violations; penalty

Any person violating this act shall be guilty of a misdemeanor.

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45:1-12. Podiatrist, optometrist or psychologist or professional service corporation; charge for completion of claim form for health insurance; fine; collection and enforcement

No podiatrist, optometrist or psychologist and no professional service corporation engaging in the practice of podiatry, optometry or psychology in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners with respect to podiatrists, the New Jersey State Board of Optometry for optometrists or the State Board of Psychological Examiners for psychologists.

45:1-13. Repealed by L.1999, c. 403, § 12, eff. Jan. 18, 2000

45:1-14. Legislative findings and declarations; liberal construction of act

The Legislature finds and declares that effective implementation of consumer protection laws and the administration of laws pertaining to the professional and occupational boards located within the Division of Consumer Affairs require uniform investigative and enforcement powers and procedures and uniform standards for license revocation, suspension and other disciplinary proceedings by such boards. This act is deemed remedial, and the provisions hereof should be afforded a liberal construction.

45:1-15. Boards and professions or occupations regulated by or through such boards; application of act

The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Alcohol and Drug Counselor Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, and the Audiology and Speech Language Pathology Advisory Committee.

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#### 45:1-15.1. Rules and regulations

Consistent with their enabling acts, P.L.1978, c. 73 (C.45:1-14 et seq.) and the Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), the boards and others set forth in section 2 of P.L.1978, c. 73 (C.45:1-15) are authorized to adopt rules and regulations to serve the public health, safety and welfare.

#### 45:1-16. Definitions

As used within this act the following words or terms shall have the indicated definition unless the context clearly indicates otherwise.

“Board” means any professional or occupational licensing board designated in section 2 of this act.<sup>1</sup>

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Person” means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trust thereof.

<sup>1</sup> N.J.S.A. § 45:1-15.

#### 45:1-17. Powers of Attorney General to implement act and administer law enforcement activities of boards

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent with the provisions of this act and the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and regulations shall govern administrative complaints, answers thereto, issuance of subpoenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings before the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.

b. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure. In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regulation affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General

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or his designee shall first consult with the agency, board or committee whose activities are affected regarding the proposed action.

c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.

#### 45:1-18. Investigative powers of boards, director or attorney general

Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such violation may exist, the board or the director through the Attorney General, or the Attorney General acting independently, may exercise any of the following investigative powers:

a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;

b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;

c. Inspect any premises from which a practice or activity subject to an act or regulation administered by the board is conducted;

d. Examine any goods, ware or item used in the rendition of a practice or activity subject to an act or regulation administered by the board;

e. Examine any record, book, document, account or paper prepared or maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in practices subject to an act or regulation administered by the board. Nothing in this subsection shall require the notification or consent of the person to whom the record, book, account or paper pertains, unless otherwise required by law;

f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used, prepared or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in a practice or activity subject to an act or regulation administered by the board. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection; and

g. Require any board licensee, permit holder or registered or certified person to submit to an assessment of skills to determine whether the board licensee, permit holder or registered or certified person can continue to practice with reasonable skill and safety.

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In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and the board, director or Attorney General may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

45:1-19. Failure or refusal to file statement or report, refusal of access to premises or failure to obey subpoena; penalty

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

- a. Adjudging such person in contempt of court; or
- b. Granting such other relief as may be required; or
- c. Suspending the license of any such person unless and until compliance with the subpoena or investigative demand is effected.

45:1-20. Compelling testimony or production of book, paper or document; immunity from prosecution

If any person shall refuse to testify or produce any book, paper, or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper, or document by the Attorney General, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction of the Attorney General shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony or from any civil or administrative action arising from such testimony.

45:1-21. Grounds for refusal to admit to examination or denial, suspension or revocation of any certificate, registration or license; definitions

A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license:

- a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
  - b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
  - c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
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- d. Has engaged in repeated acts of negligence, malpractice or incompetence;
- e. Has engaged in professional or occupational misconduct as may be determined by the board;
- f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;
- i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
- j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;
- k. Has violated any provision of P.L.1983, c. 320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L.1983, c. 320 (C.17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;
- l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;
- m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;
- n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;
- o. Advertised fraudulently in any manner.

For purposes of this act:

"Completed application" means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c. 421 (C.13:1D-101), for the class or category of permit for which application is made.

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“Permit” has the same meaning as defined in section 1 of P.L.1991, c. 421 (C.13:1D-101).

45:1-21.1. Annual summary of compliance information and attendance at continuing education seminars; costs; information deemed public records

a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c. 418 (C. 13:1D-110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c. 418 (C. 13:1D-110) regarding compliance with the department’s requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c. 419 (C. 13:1D-117).

b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c. 46 (C. 45:1-3.2).

c. Information required to be compiled by a board pursuant to this section, shall be deemed to be public records subject to the requirements of P.L.1963, c. 73 (C. 47:1A-1 et seq.).

45:1-21.2. Suspension of certain licenses; hearing

The director or a board shall suspend, as appropriate, after a hearing, the license, registration or certification of any person who has been certified by a lender or guarantor and reported to the director or the board, as the case may be, for nonpayment or default of a State or federal direct or guaranteed educational loan. The license, registration or certification shall not be reissued until the person provides the director or board with a written release issued by the lender or guarantor stating that the person has cured the default or is making payments on the loan in accordance with a repayment agreement approved by the lender or guarantor. If the person has continued to meet all other requirements for licensure, registration or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director or the board may impose.

45:1-22. Additional or alternative penalties to revocation, suspension or refusal to renew; temporary order suspending or limiting license; subpena

In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;

b. Assess civil penalties in accordance with this act;

c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;

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d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;

e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions;

f. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to any medical or diagnostic testing and monitoring or psychological evaluation which may be required to evaluate whether continued practice may jeopardize the safety and welfare of the public;

g. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to take and successfully complete educational training determined by the board to be necessary;

h. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to submit to any supervision, monitoring or limitation on practice determined by the board to be necessary.

A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdiction for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order. If, upon review of the Attorney General's application, the board determines that, although no palpable demonstration of a clear and imminent danger has been made, the licensee's continued unrestricted practice pending plenary hearing may pose a risk to the public health, safety and welfare, the board may order the licensee to submit to medical or diagnostic testing and monitoring, or psychological evaluation, or an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety.

In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

45:1-23. Summary proceeding in Superior Court; injunction; orders necessary to prevent unlawful practice or remedy past unlawful activity

Whenever it shall appear to a board, the director or the Attorney General that a violation of any act, including the unlicensed practice of the regulated profession or occupation, or regulation administered by such board has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice. In any such proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or

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practice and may enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by a board.

45:1-24. Failure to comply with order of board directing payment of penalties or restoration of moneys or property; enforcement

Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order. An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant to the Penalty Enforcement Act, (N.J.S. 2A:58-1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing such person before the court to satisfy any order entered.

45:1-25. Violations; civil penalty; action to collect or enforce

a. Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$10,000 for the first violation and not more than \$20,000 for the second and each subsequent violation. For the purpose of construing this section, each act in violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:

- (1) an administrative or court order has been entered in a prior, separate and independent proceeding;
- (2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or
- (3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.

b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C.2A:58-10 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action,

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the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice.

c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court.

d. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

#### 45:1-26. Repeal of inconsistent acts and parts of acts

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

#### 45:1-27. Severability

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

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**CHAPTER 9.  
MEDICINE AND SURGERY**

**ARTICLE 3. PRACTICE OF THE SCIENCE OF CHIROPRACTIC**

45:9-14.5. “Practice of chiropractic” defined; instruments which may be used; not to sign certificates; use of title doctor; unlicensed persons

Within the meaning of the provisions of sections 45:9-14.6, 45:9-14.7, 45:9-14.8 and 45:9-14.9 hereof, and of this act, which supplements chapter nine of Title 45 of the Revised Statutes, the practice of chiropractic is defined as follows: “A system of adjusting the articulations of the spinal column by manipulation thereof.” A licensed chiropractor shall have the right in the examination of patients to use the neurocalometer, X-ray, and other necessary instruments solely for the purpose of diagnosis or analysis. No licensed chiropractor shall use endoscopic or cutting instruments, or prescribe, administer, or dispense drugs or medicines for any purpose whatsoever, or perform surgical operations excepting adjustment of the articulations of the spinal column.

No person licensed to practice chiropractic shall sign any certificate required by law or the State Sanitary Code concerning reportable diseases, or birth, marriage or death certificates.

No person licensed to practice chiropractic shall use the title doctor or its abbreviation in the practice of chiropractic unless it be qualified by the word “chiropractor.”

It shall be unlawful for any person, not duly licensed in this State to practice chiropractic, to use terms, titles, words or letters which would designate or imply that he or she is qualified to practice chiropractic, or to hold himself or herself out as being able to practice chiropractic, or offer or attempt to practice chiropractic.

45:9-14.5a. Administration of physical modalities by employees of chiropractor

a. A chiropractor licensed pursuant to P.L.1989, c. 153 (C.45:9-41.17 et seq.) or chapter 9 of Title 45 of the Revised Statutes shall not use an employee to administer physical modalities to patients unless that employee is a health care provider licensed in this State.

As used in this subsection, physical modalities mean ultraviolet (B and C bands) and electromagnetic rays including, but not limited to, deep heating agents, microwave diathermy, shortwave diathermy, and ultrasound.

b. Nothing in this section shall be construed to prohibit any person licensed to practice in this State under any other law from engaging in the practice for which he is licensed.

45:9-14.6. Persons holding chiropractic licenses under act of 1920

A person holding a valid license issued in due course by virtue of the provisions of an act entitled “An act to regulate the practice of chiropractic,” approved March third, one thousand nine hundred and twenty (L.1920, c. 4, p. 15), or any acts supplementary thereto or amendatory thereof, shall be authorized to continue to practice pursuant to said license as though the act under which said license had been issued had not been repealed.

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45:9-14.7, 45:9-14.8. Ineffective on and after Jan. 1, 1940

45:9-14.9. Ineffective after July 31, 1944

45:9-14.10. Persons holding licenses under repealed or superseded acts

Any person holding a valid license heretofore issued in due course by virtue of the provisions of article two of chapter nine of Title 45 of the Revised Statutes, or any acts superseded thereby, shall be authorized to continue to practice pursuant to said license as though article two of chapter nine of Title 45 of the Revised Statutes, or any acts superseded thereby, under which said license had been issued had not been repealed.

45:9-22.4. Definitions

For the purposes of this act:

“Health care service” means a business entity which provides on an inpatient or outpatient basis: testing for or diagnosis or treatment of human disease or dysfunction; or dispensing of drugs or medical devices for the treatment of human disease or dysfunction. Health care service includes, but is not limited to, a bioanalytical laboratory, pharmacy, home health care agency, rehabilitation facility, nursing home, hospital, or a facility which provides radiological or other diagnostic imagery services, physical therapy, ambulatory surgery, or ophthalmic services.

“Immediate family” means the practitioner’s spouse and children, the practitioner’s siblings and parents, the practitioner’s spouse’s siblings and parents, and the spouses of the practitioner’s children.

“Practitioner” means a physician, chiropractor or podiatrist licensed pursuant to Title 45 of the Revised Statutes.

“Significant beneficial interest” means any financial interest; but does not include ownership of a building wherein the space is leased to a person at the prevailing rate under a straight lease agreement, or any interest held in publicly traded securities.

45:9-22.5. Reference to health care service by practitioner with significant beneficial interest; disclosure to patient; exceptions

a. A practitioner shall not refer a patient or direct an employee of the practitioner to refer a patient to a health care service in which the practitioner, or the practitioner’s immediate family, or the practitioner in combination with practitioner’s immediate family has a significant beneficial interest; except that, in the case of a practitioner, a practitioner’s immediate family or a practitioner in combination with the practitioner’s immediate family who had the significant beneficial interest prior to the effective date of P.L.1991, c. 187 (C. 26:2H-18.24 et seq.), the practitioner may continue to refer a patient or direct an employee to do so if that practitioner discloses the significant beneficial interest to the patient.

b. If a practitioner is permitted to refer a patient to a health care service pursuant to subsection a. of this section, the practitioner shall provide the patient with a written disclosure form, prepared pursuant to section 3 of P.L.1989, c. 19 (C. 45:9-22.6), and post a copy of this disclosure form in a conspicuous public place in the practitioner’s office.

c. The restrictions on referral of patients established in this section shall not apply to:

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(1) a health care service that is provided at the practitioner's medical office and for which the patient is billed directly by the practitioner; and

(2) radiation therapy pursuant to an oncological protocol, lithotripsy and renal dialysis.

#### 45:9-22.6. Written disclosure form

The written disclosure form required pursuant to section 2 of this act<sup>1</sup> shall be in the following form:

Public law of the State of New Jersey mandates that a physician, chiropractor or podiatrist inform his patients of any significant financial interest he may have in a health care service.

Accordingly, I wish to inform you that I do have a financial interest in the following health care service(s) to which I refer my patients:

(list applicable health care services)

You may, of course, seek treatment at a health care service provider of your own choice. A listing of alternative health care service providers can be found in the classified section of your telephone directory under the appropriate heading.

<sup>1</sup> N.J.S.A. § 45:9-22.5.

#### 45:9-22.7. Exceptions

The disclosure requirements of this act do not apply in the case of a practitioner who is providing health care services pursuant to a prepaid capitated contract entered into with the Division of Medical Assistance and Health Services in the Department of Human Services.

#### 45:9-22.8. Violations; penalties

A practitioner who violates the provisions of this act is liable for a penalty pursuant to section 12 of P.L.1978, c. 73 (C.45:1-25).

### **ARTICLE 3. PRACTICE OF THE SCIENCE OF CHIROPRACTIC**

45:9-41.1 to 45:9-41.3. Repealed by L.1979, c. 432, § 5, eff. Feb. 14, 1980

45:9-41.4. Graduates engaged in practice before December, 1952 entitled to license upon passing examination in certain subjects; time for taking examination

Any person who subsequent to July thirty-first, one thousand nine hundred and forty-four, and prior to January first, one thousand nine hundred and fifty-three, was graduated from a legally incorporated school, institution or college of chiropractic, and who has successfully completed or who shall successfully complete four courses of lectures requiring personal attendance during four full school years of at least seven months each, and who has been a resident of the State of New Jersey for at least four consecutive years terminating on December thirty-first, one thousand nine hundred and fifty-two, and was actively engaged in the practice of chiropractic prior to and including

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the month of December, one thousand nine hundred and fifty-two, and who is more than twenty-one years of age, of good moral character, and a citizen of the United States, shall upon a successful passing of an examination, given by the board, in the following subjects: anatomy, including neurologic and histologic anatomy, physiology, pathology, hygiene, chiropractic diagnosis, and the therapeutics of chiropractic, be granted a license to practice chiropractic in the State of New Jersey by the board. Persons coming under this special provision must make application for license to the board within ninety days after the effective date of this act. Persons applying for a license under this section shall take the required examination prior to December thirty-first, one thousand nine hundred and fifty-four. The records of the board and any license so issued shall state that the applicant was licensed under the exemption contained in this section.

45:9-41.5. Graduates of approved chiropractic college entitled to license upon passing examination; qualifications

Any other person applying subsequent to the thirty-first day of December, one thousand nine hundred and fifty-two, to take an examination leading to the granting of a license to practice chiropractic in New Jersey who has been graduated from a legally incorporated school, institution, or college of chiropractic after successfully completing four courses of lectures requiring personal attendance during four full school years of at least nine months each in four different calendar years, which school, institution or college, if the applicant is graduated after the thirtieth day of June, one thousand nine hundred and fifty-three, shall have been approved by the board, who is more than twenty-one years of age, of good moral character, and a citizen of the United States, and who shall furnish proof of such facts, satisfactory to the board, shall, upon successfully passing an examination, given by the board, in the following subjects: anatomy, including neurologic and histologic anatomy, physiology, pathology, bacteriology, non-surgical diagnosis, chemistry, hygiene, and the therapeutics of chiropractic, be granted a license to practice chiropractic in the State of New Jersey by the board.

45:9-41.6. School, institution or college of chiropractic; approval and accreditation; standards

The board shall accept as an applicant for licensure as a chiropractor any individual who has graduated from a school, institution or college of chiropractic which was approved during the individual's entire course of study by the board, and accredited by the Council of Chiropractic Education, or the Straight Chiropractic Academic Standards Association, or other accrediting agency approved by the United States Department of Education.

The board, in approving a school, institution or college of chiropractic, shall consult with and take into consideration the standards suggested by the Council of Chiropractic Education, the Straight Chiropractic Academic Standards Association, or other accrediting agency approved by the United States Department of Education.

Board approval of a school, institution or college of chiropractic accredited by the Council of Chiropractic Education, the Straight Chiropractic Academic Standards Association, or other accrediting agency approved by the United States Department of Education shall be based upon the standards set forth below and may include an on site inspection.

a. Organization: The chiropractic school, institution or college shall be incorporated as a nonprofit institution of learning and shall be lawfully chartered to grant the degree of Doctor of Chiropractic within the state of its residence.

b. Faculty:

(1) The basic science division and each department within the division shall be headed by a person possessing at least a Master of Science degree.

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(2) Each member of the chiropractic science division shall be headed by a person possessing a degree of Doctor of Chiropractic and shall be eligible for licensure within the state in which the school, institution or college is located.

c. Plant:

(1) The school, institution or college shall have sufficient space to provide lecture rooms, laboratories, library, administrative and faculty offices, as well as out-patient clinics for men and women.

(2) The library shall be headed by a full-time librarian with a degree in library science, and shall consist of at least 10,000 volumes whose quality reflects current knowledge in the field.

(3) There shall be a medical museum containing sufficient pathological, embryological, histological and anatomical specimens to augment the teaching of related subjects.

(4) There shall be sufficient, useful auxiliary equipment sufficient for the teaching of the student body, such as mannikins, charts, skeletons, models, projectors, microscopes, adjusting tables and other equipment peculiar to the teaching of chiropractic.

d. Clinical facilities: Each school, institution or college of chiropractic shall operate a general chiropractic clinic or clinics in which the student shall gain clinical chiropractic practice with patients with chiropractic case management, which shall include the chiropractic clinical aspects of the courses which are required in the curriculum, for a proper understanding of the knowledge gained from the classroom and laboratory instruction. The clinic shall include proper experience in various aspects of patient examination for the purpose of determining the appropriateness of chiropractic care. Clinical instruction shall encourage the student to refer patients to doctors in the practice of medicine when impressions obtained as a result of chiropractic examination indicate a consultation is in the patient's best interest.

e. Resources: The school shall have sufficient resources to ensure financial stability and continuous operation.

f. Administration: There shall be responsible supervision of the entire school by the dean or other executive officer who, by training and experience, is qualified to interpret the prevailing standards in chiropractic and therapeutic education and who shall possess sufficient authority to integrate such standards into the school's, institution's or college's curriculum.

g. Records: There shall be a comprehensive system of records showing conveniently and in detail the credentials, grades and accounts of the students, by means of which an exact knowledge of each student's work can be obtained. Records shall also be kept showing the clinical work of each student and attendance. Except for good cause, such as illness, no credit shall be given for any course when the attendance has been less than 80% of full time, or when the student fails to satisfactorily complete course requirements.

h. Requirement for admission: Prior to commencing a course of study in the approved school, institution or college of chiropractic, the student shall have successfully completed at least two years of study in a school or college of arts and sciences accredited or recognized by the New Jersey State Department of Education, no less than 1/2 years of which shall have been completed prior to commencing his course of study in the approved school of chiropractic pursuant to the provisions of section 10 of P.L.1953, c. 233 (C.45:9-41.7).

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i. Publications: The school, institution or college shall issue, at least annually, a bulletin setting forth the nature and content of the courses of study offered. Such announcements shall contain a list of the faculty with their respective qualifications, academic degree received and the name of the degree-granting school, institution or college. The courses available should be set forth by departments (anatomy, physiology, pathology, etc.) showing for each course its contents, character, number of hours, etc. Information should be given regarding entrance requirements, tuition and other fees.

j. Curriculum: The entire course of four years shall consist of 3,600 to 4,400 class hours of not less than 45 minutes each, distributed from 900 to 1,100 hours per year, and shall be grouped as set forth in the following schedule. Each group is to be allotted approximately the percentage of the whole number of hours in the course as follows:

Subject	Percentage of Total
1. Anatomy, including dissection wherever possible, embryology and histology	25%
2. Principles of Chiropractic	37 1/2%
3. Physiology	6 1/4%
4. Diagnosis and Symptomatology	7 1/2%
5. Pathology, Bacteriology and Laboratory Technique	8 3/4%
6. Chemistry	2 1/2%
7. Neurology	5%
8. Hygiene	1 1/4%
9. Jurisprudence	1 1/4%
10. Gynecology, Obstetrics, Spinography, Endocrinology, Dermatology, Pediatrics, Special Sense	5%
	100%

45:9-41.7. Course in arts and sciences required prior to study in chiropractic school

Any applicant to take an examination leading to the granting of a license to practice chiropractic in New Jersey, who has been graduated from an approved chiropractic school after December 31, 1957, must, in addition to the other requirements of this act, have successfully completed prior to commencing his or her courses of study in an approved school of chiropractic at least 1 year's study in a school or college of arts and sciences accredited by the State Department of Education and if such applicant has been graduated from an approved chiropractic school after December 31, 1958, any such applicant must complete at least 2 years' study in a school or college of arts and sciences accredited by the State Department of Education no less than 1 1/2 years of which shall have been completed prior to commencing his or her courses of study in the approved school of chiropractic. Successful

completion of the aforementioned study prior to commencing the courses of study in an approved school of chiropractic shall be evidenced by a certificate issued by the Commissioner of Education of this State to that effect.

**45:9-41.8. Applicant for licensure; evidence of qualifications; examination prepared by board**

Each applicant for licensure as a chiropractor shall submit to the Board of Chiropractic Examiners, on a form prescribed by the board, satisfactory evidence of his qualifications as prescribed by P.L.1953, c. 233 (C.45:9-41.5 et al.).

The form and content of any examination of applicants for a license to practice chiropractic in New Jersey hereunder shall be prepared by the board.

**45:9-41.9. Persons whose study of chiropractic was interrupted by service in armed forces**

For the purpose of qualifying under any of the provisions of this act any applicant for a license to practice chiropractic who has been graduated from a legally incorporated school, institution, or college of chiropractic and who can produce evidence satisfactory to the board that his chiropractic education was interrupted by reason of his induction or enlistment into the active armed forces of the United States of America and that he served honorably therein, such applicant shall be entitled to have his date of graduation determined as if he had completed his courses of study of chiropractic without such

**45:9-41.10. Persons examined and licensed in other states; license without examination**

Any applicant for a license to practice chiropractic under section 10 of P.L.1953, c. 233 (C. 45:9-41.7) upon proving that he has been examined and licensed to practice chiropractic by the examining and licensing board of another state of the United States having requirements for examination and licensure equivalent to those required under section 8 of P.L.1953, c. 233 (C. 45:9-41.5), or upon certification by the National Board of Chiropractic Examiners, may, in the discretion of the State Board of Chiropractic Examiners, be granted a license to practice chiropractic without further examination upon payment to the treasurer of the State Board of Chiropractic Examiners of a license fee prescribed by the board; provided, such applicant shall furnish proof that he fulfills the requirements demanded in the other sections of P.L.1953, c. 233 (C. 45:9-41.5 et al.) relating to applicants for admission by examination. Notwithstanding the foregoing, an applicant who otherwise qualifies pursuant to this section and has five years of experience in treating patients in the practice of chiropractic as a licensed chiropractor in good standing in another state or states, shall not be required to fulfill the requirements of section 10 of P.L.1953, c. 233 (C. 45:9-41.7) concerning the completion of certain studies in a school or college of arts and sciences prior to commencing or during study in an approved school of chiropractic, but shall be required to pass an examination leading to the granting of a license to practice chiropractic in New Jersey. In any such application for a license without examination all questions of academic requirements of other states shall be determined by the Commissioner of Education of this State.

**45:9-41.11. Annual registration; reinstatement after suspension; retirement from practice; automatic suspension upon failure to procure annual certificate**

All persons who are licensed to practice chiropractic shall be required on or before September 1, 1953, and on or before September 1 annually thereafter, to register on the form prescribed by the board and furnished by the secretary of said board, and to pay an annual registration fee of \$10.00.

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The license of any licensee, who fails to procure any annual certificate of registration, shall be automatically suspended on September 1 of that year. It shall be the duty of the secretary of the board on or before August 1 of each year to send a written notice to each of such licensees, whether a resident or not, at his last address on file with the board, that his annual registration fee is due on or before September 1 and that his license to practice in this State will be suspended if he does not procure said certificate by September 1 of the said year.

Any such licensee whose license has been suspended under this section may be reinstated by the payment of all past due annual registration fees and in addition thereto \$25.00 to cover cost of reinstatement.

Any person who desires to retire from the practice of chiropractic, and during retirement to refrain from practicing under the terms of his license, upon application to the secretary of the board, may be registered annually, without the payment of any registration fee, as a retired practitioner. The certificate of registration which shall be issued to a retired chiropractor shall state, among other things, that the holder has been licensed to practice in New Jersey, but that during his retirement he shall not so practice. The holder of a certificate of registration as a retired licensee shall be entitled to resume practice at any time; provided, he first shall have obtained from the secretary an annual certificate of registration as hereinbefore provided.

The license to practice chiropractic of any person who fails to procure any annual certificate of registration, or in lieu thereof an annual certificate of registration as a retired licensee, at the time and in the manner required by this act shall be automatically suspended. Any person whose license shall have been automatically suspended shall, during the period of such suspension, be regarded as an unlicensed person and, in case he shall continue or engage in practice under the terms of his license during such period, shall be liable to the penalties prescribed by R.S. 45:9-22. Any person to whom a certificate of registration as a retired licensee shall have been issued who shall continue or engage in practice under the terms of his license without first having obtained a certificate of registration authorizing him to resume such practice, shall be liable to the penalties prescribed by R.S. 45:9-22 for practicing without a license.

It shall be the duty of each such licensee holding a certificate to practice chiropractic in this State, whether a resident or not, to notify the secretary of the board in writing of any change in his office address or his employment within 10 days after such change shall have taken place.

The provisions of R.S. 45:9-17 shall be applicable, in like manner, to persons receiving a license to practice chiropractic.

#### 45:9-41.12. "Board" defined

As used in P.L.1953, c. 233 (C.45:9-41.5 et al.) the term "board" means the State Board of Chiropractic Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety established pursuant to section 4 of P.L.1989, c. 153 (C.45:9-41.20).

#### 45:9-41.13. Partial invalidity

If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application and to this end the provisions of this act are declared to be severable.

45:9-41.14 to 45:9-41.16. Repealed by L.1979, c. 432, §5, eff. Feb. 14, 1980

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## 45:9-41.17. Short title

This act shall be known and may be cited as the “Chiropractic Board Act.”

## 45:9-41.18. Legislative findings and declarations

The Legislature finds and declares that it is a valid public purpose to establish a separate board to regulate the practice of chiropractic in this State to properly protect the citizenry who receive the services of a chiropractor by maintaining and ensuring standards of competency and integrity of the profession and preventing unsafe, fraudulent or deceptive practices which may damage the health of those citizens, as well as the reputation of the profession in this State.

## 45:9-41.19. Definitions

As used in this act, sections 19, 20 and 24 of P.L.1939, c. 115 (C.45:9-14.5, C.45:9-14.6 and C.45:9-14.10) and P.L.1953, c. 233 (C.45:9-41.5 et al.):

- a. “Board” means the State Board of Chiropractic Examiners created pursuant to section 4 of this act<sup>1</sup>
- b. “Chiropractor” means a person trained and qualified in the discipline of chiropractic whose license is in force and not suspended or revoked at the time in question.

<sup>1</sup>N.J.S.A. § 45:9-41.20.

## 45:9-41.20. State board of chiropractic examiners; creation; members; appointment; term; vacancies

There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the State Board of Chiropractic Examiners. The board shall consist of 11 members who are residents of the State, two of whom shall be public members and one of whom shall be a State executive department member appointed pursuant to the provisions of P.L.1971, c. 60 (C.45:1-2.1 et seq.). The remaining eight members shall be licensed chiropractors who have been actively engaged in the practice of chiropractic in this State for at least five years immediately preceding their appointments.

The Governor shall appoint each member, other than the State executive department member, with the advice and consent of the Senate, for a term of three years, except that three of the initial chiropractic members of the board shall consist of the incumbent chiropractic member of the State Board of Medical Examiners, who shall serve until the expiration of his current term as a chiropractic member, and the two incumbent chiropractic assistants of the State Board of Medical Examiners, each of whom shall serve until the expiration of his current term as a chiropractic assistant, and except that of the remaining five chiropractic members first appointed, two shall serve for terms of three years, two shall serve for terms of two years and one shall serve for a term of one year. Each member shall hold office until his successor has been qualified. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. No member of the board may serve more than two successive terms in addition to any unexpired term to which he has been appointed.

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**45:9-41.21. Compensation; reimbursement of expenses; office and meeting facilities**

Members of the board shall be compensated and reimbursed for expenses and provided with office and meeting facilities pursuant to section 2 of P.L.1977, c. 285 (C.45:1-2.5).

**45:9-41.22. Officers; election; meetings**

The board shall annually elect from among its members a president, vice-president, secretary and treasurer. The board shall meet at least four times per year and may hold additional meetings as necessary to discharge its duties.

**45:9-41.23. Duties and powers**

The board shall:

- a. Appoint and prescribe the duties of an executive secretary. The executive secretary shall serve at its pleasure;
- b. Review the qualifications of applicants for licensure;
- c. Insure the proper conduct and standards of examinations;
- d. Issue and renew annual licenses for chiropractors pursuant to this act, sections 19, 20 and 24 of P.L.1939, c. 115 (C.45:9-14.5, C.45:9-14.6 and C.45:9-14.10) and P.L.1953, c. 233 (C.45:9-41.5 et al.);
- e. Refuse to admit a person to an examination, or refuse to issue a license, or suspend, revoke or fail to renew the license of a chiropractor pursuant to the provisions of P.L.1978, c. 73 (C.45:1-14 et seq.);
- f. Maintain a record of chiropractors licensed in this State, their places of business, places of residence and the date and number of their licenses;
- g. Prescribe or change the charges for examinations, licensures, renewals and other services it performs pursuant to P.L.1974, c. 46 (C.45:1-3.1 et seq.);
- h. Adopt and promulgate rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act, sections 19, 20 and 24 of P.L.1939, c. 115 (C.45:9-14.5, C.45:9-14.6 and C.45:9-14.10) and P.L.1953, c. 233 (C.45:9-41.5 et al.).

**45:9-41.24. Records and unfinished undertakings of state board of medical examiners relating to practice of chiropractic, transfer**

All records of the State Board of Medical Examiners relating to the practice of chiropractic shall be transferred to the State Board of Chiropractic Examiners, and the State Board of Chiropractic Examiners is empowered to take over and complete all unfinished undertakings of the State Board of Medical Examiners concerning the practice of chiropractic.

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45:9-41.25. Transfer of jurisdiction, powers, duties and responsibilities of state board of medical examiners with respect to practice of chiropractic; governance by state board of chiropractic examiners

All jurisdiction, powers, duties and responsibilities heretofore vested in the State Board of Medical Examiners with respect to the practice of chiropractic and the granting, suspension or revocation of licenses of chiropractors under chapter 9 of Title 45 of the Revised Statutes shall be immediately transferred to and vested in the State Board of Chiropractic Examiners created by this act, which board shall hereafter govern the practice of chiropractic in this State in accordance with all applicable laws.

45:9-41.26. Inapplicability of act to laws and licenses in effect

Laws of this State relating to the practice of chiropractic and not amended by, or inconsistent with, this act shall remain in effect. Chiropractic licenses heretofore issued shall be unaffected by this act.

45:9-41.27. Continuation of scope of practice of chiropractic and caring for subluxation

The scope of practice of chiropractic shall remain as defined in existing statutes. Nothing in this act shall be deemed to prohibit a chiropractor from caring for chiropractic subluxation as determined by chiropractic analytical procedures. Chiropractic analysis which identifies the existence of a subluxation may be the only basis for chiropractic care.

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**STATE BOARD OF CHIROPRACTIC EXAMINERS****SUBCHAPTER 3. DETERMINATIONS WITH RESPECT TO THE VALIDITY OF  
CERTAIN DIAGNOSTIC TESTS, SPECIAL REQUIREMENTS FOR  
ELECTRODIAGNOSTIC TESTS AND OTHER SPECIAL EXAMINATIONS****SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS****13:44E-1.1 Scope of practice**

(a) The practice of chiropractic is that patient health care discipline whose methodology is the adjustment and/or manipulation of the articulations of the spine and related structures. During the initial consultation and before commencing chiropractic care, a licensee shall identify and document a clinical condition warranting chiropractic care. Nothing herein contained shall be deemed to prohibit a licensee from caring for chiropractic subluxation as determined by chiropractic analytical procedures. Chiropractic analysis which identifies the existence of a subluxation may be the basis for chiropractic care even in the absence of a subjective complaint or other objective findings.

(b) A chiropractic diagnosis or analysis shall be based upon a chiropractic examination appropriate to the presenting patient. Should the examination indicate abnormality not generally recognized as amendable to chiropractic care, a licensee shall refer the patient to an appropriate health care provider. Nothing herein contained shall preclude a licensee from rendering concurrent and/or supportive chiropractic care to any patient so referred.

(c) The following diagnostic and analytical procedures are within the scope of practice of a licensee:

1. The taking and ordering of X-rays limited to the osseous system;
2. The ordering, but not performing, of bioanalytical laboratory tests consistent with chiropractic practice;
3. The ordering or performing of reagent strip tests (dipstick urinalysis) consistent with chiropractic practice;
4. The ordering, but not performing, of such other diagnostic or analytical tests consistent with chiropractic practice including, but not limited to, computerized axial tomography (CT), magnetic resonance imaging (MRI), bone scan, invasive electromyography (EMG) and chest x-ray;
5. The requesting or performing of such other diagnostic or analytical tests consistent with chiropractic practice including, but not limited to, non-invasive muscle testing and tests using neurocalometer-type devices;
6. The requesting or performing of electrodiagnostic tests or other special examinations, to the extent and in the manner authorized by N.J.A.C. 13:44E-3; and
7. In conjunction with a chiropractic adjustment, the ordering and/or administering of physical modalities where clinically indicated.

(d) A licensee may offer general nutritional advice to a patient when such advice is incidental to the chiropractic care being provided. A licensee shall not offer nutritional advice as treatment for a specific disease, defect, or deformity. A licensee shall not, incidental to chiropractic care, sell, dispense or derive any financial benefit from

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the sale of vitamins, food products or nutritional supplements. A licensee shall not represent himself or herself as a nutritional consultant.

#### SUBCHAPTER 1A. LICENSURE

##### 13:44E-1A.1 Licensing requirements for a chiropractor

(a) To be eligible for licensure as a chiropractor in New Jersey, an applicant shall:

1. Be at least 18 years of age;
2. Be of good moral character as demonstrated on the application;
3. Have successfully completed high school or its equivalent;
4. Have successfully:
  - i. Completed two years of study in an accredited college or university with at least one and one-half of the two years of study prior to commencing study in a chiropractic college or university within a course of study which meets the requirements set forth in N.J.S.A. 45:9-41.5; and
  - ii. Graduated from a chiropractic college or university, which meets the requirements set forth in N.J.S.A. 45:9-41.5 during the applicant's entire course of study;
5. Have passed the National Board of Chiropractic Examiners Examination pursuant to N.J.A.C. 13:44E-2.13; and
6. Have passed the New Jersey Chiropractic Jurisprudence Examination.

##### 13:44E-1A.2 Application for license: chiropractor

(a) An applicant for licensure as a chiropractor in New Jersey shall submit the following to the Board:

1. A completed application form provided by the Board which shall contain the applicant's name, address, social security number, academic qualifications, licensure information from other states, resume, questions demonstrating moral character, confidential questions concerning the applicant's fitness to practice and child support questions;
  2. Official transcripts demonstrating completion of the educational requirements pursuant to N.J.A.C. 13:44E-1A.1(a)4;
  3. Proof of successful completion of the National Board of Chiropractic Examiners Examination pursuant to N.J.A.C. 13:44E-2.13; and
  4. The application fee set forth in N.J.A.C. 13:44E-2.5.
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**13:44E-1A.3 Applicants licensed in other states**

(a) An applicant who is licensed to practice chiropractic by an examining and licensing board of another state shall be granted a license to practice chiropractic in New Jersey without further examination provided that:

1. The examining and licensing board of the applicant's state of licensure has licensure and examination requirements equivalent to those of this State;
2. The applicant furnishes an official transcript demonstrating that he or she has completed the educational requirements set forth in N.J.A.C. 13:44E-1A.1(a)4;
3. The Board has received evidence of the applicant's good standing in any jurisdiction where he or she is or has been licensed; and
4. The applicant pays the endorsement license fee as set forth in N.J.A.C. 13:44E-2.5.

(b) An applicant for a licensure to practice chiropractic in this State who holds a valid license to practice chiropractic in another state shall be required to successfully complete the New Jersey Jurisprudence Examination.

(c) An applicant who holds a license in good standing to practice chiropractic in another state, who has five years of postgraduate chiropractic clinical experience and who does not satisfy the prerequisite educational requirements of N.J.A.C. 13:44E-1A.1(a)4i, shall be granted a license to practice chiropractic in New Jersey provided that the applicant has passed the National Board of Chiropractic Examiners Special Purposes Examination for Chiropractic.

**13:44E-1A.4 Biennial license renewal**

(a) Licenses to practice chiropractic shall be issued for a period of two years and be renewed biennially. A licensee who seeks renewal of his or her license shall submit a license renewal application and the license renewal fee set forth in N.J.A.C. 13:44E-2.5 to the Board prior to the expiration of the current license.

(b) If a licensee does not renew his or her license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a license renewal fee and a late fee, as set forth in N.J.A.C. 13:44E-2.5.

(c) A license that is not renewed within 30 days of its expiration date shall expire. Any individual who continues to practice with an expired license after 30 days following the license expiration date shall be deemed to be engaged in unlicensed practice.

(d) Falsification of any information submitted with the renewal application may result in penalties and/or suspension of the license pursuant to N.J.S.A. 45:1-21 through 25.

**SUBCHAPTER 2. GENERAL RULES OF PRACTICE****13:44E-2.1 Advertising**

(a) The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise.

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1. "Advertisement" means the attempt, directly or indirectly by publication, dissemination, solicitation, endorsement or circulation in print or electronic media or in any other way, to attract directly or indirectly any person to enter into an expressed or implied agreement to accept chiropractic services or care or goods related thereto.
2. "Electronic media" means, but is not limited to, radio, television, telephone, facsimile machine, and computer.
3. "Print media" means newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, fliers or other publications, the content of which is disseminated by means of the printed word.
4. "Range of fees" means an expressly stated upper and lower limit on the fee charged for a professional service.
5. "Routine professional service" means a service which the advertising licensee, professional association or institution providing chiropractic care routinely performs.

(b) A licensed chiropractor who is actively engaged in the practice of chiropractic in the State of New Jersey may provide information to the public by advertising in print or electronic media.

(c) A licensee who engages in the use of advertising which contains the following shall be deemed to be engaged in professional misconduct:

Any statement, claim, or format which is false, fraudulent, misleading or deceptive;

2. Claims that the professional service performed or the materials used are superior to that which is ordinarily performed or used unless such claims can be substantiated by the licensee;
  3. Promotion of a professional service which the licensee knows or should know is beyond the licensee's ability to perform;
  4. Techniques of communication which appear to intimidate, exert undue pressure or undue influence over a prospective patient;
  5. The communication of personally identifiable facts, data, or information about a patient without the patient's signed written permission obtained in advance;
  6. The use of any misrepresentation;
  7. The suppression, omission or concealment of any material fact under circumstances which a Board licensee knows or should know that the omission is improper or prohibits a prospective patient from making a full and informed judgment on the basis of the information set forth in the advertisement;
  8. Any print, language or format which directly or indirectly obscures a material fact;
  9. Any guarantee that services rendered will result in a cure; or
  10. Any violations of (d) through (m) below.
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(d) The Board may require a licensee to provide factual substantiation of the truthfulness of any objective assertion or representation set forth in an advertisement.

(e) A Board licensee shall not engage directly or indirectly in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence. This subsection shall not prohibit the offering of services by a Board licensee to any bona fide representative of prospective patients including, but not limited to, employers, labor union representatives, or insurance carriers.

(f) Advertising making reference to or setting forth a fee shall be limited to that which contains a fixed or a stated range of fees for a specifically described professional service or class of services. A licensee who advertises shall disclose all the relevant variables and considerations which are ordinarily included in such a service so that the fees will not be misunderstood. In the absence of such a disclosure, the stated fees shall be presumed to include everything ordinarily required for such a service. No additional charges shall be made for an advertised service unless the advertisement includes the following disclaimer:

“Additional charges may be incurred for related services which may be required in individual cases.”

1. The disclaimer as set forth above shall not be used for treatment where related services are ordinarily required.

2. In any advertisement in which examination fees are set forth, the cost of x-rays shall also be set forth along with the disclosure: “if needed.”

(g) Offers of discounts or fee reductions or free services shall indicate the advertiser’s fixed or stated range of fees against which said discount is to be made and/or the value of the free services. Chiropractic services which are routinely or ordinarily performed free of charge, shall be clearly and conspicuously stated in the body of the advertisement as such.

1. The fixed or stated range of fees or value of free services shall mean and be established on the basis of the advertiser’s most commonly charged fee for the stated service within the most recent 60 days prior to, or to be charged in the first 60 days following, the effective date of the advertisement.

2. Offers of across-the-board discounts shall include a representative list of services and the fixed or stated range of fees against which discounts are to be made for these services. The list shall include a sampling of the advertiser’s most frequently performed services.

i. “Across-the-board discounts” shall mean the offer of a specified discount on an undefined class of services or the offer of a specified discount to a defined class of patients. For example, “15% discount during April on all chiropractic services” or “15% discount to senior citizens on all chiropractic services.”

ii. Example of Representative List of Services:

	Regular Fee	Discount Fee
Consultation	\$ _____	\$ _____
Examination	_____	_____
Complete X-Rays	_____	_____
Physical Modality	_____	_____

iii. The effective period during which a fee or discount shall remain in effect shall be set forth on the face of the advertisement. In the absence of such disclosure, the effective period shall be deemed to be 30 days from the date of the advertisement's initial publication.

3. Except as set forth in (g)4 below, a licensee shall not charge any patient responding to an advertisement offering free or reduced fee services for any service rendered during a period of 24 hours from the time the advertised free or reduced fee service was rendered.

4. In the event a patient responding to an advertisement offering free or reduced fee services is in need of services other than those advertised as free or reduced, including extraordinary diagnostic services or immediate chiropractic care, the licensee shall not charge for any such services rendered during a period of 24 hours from the time the advertised free service was rendered unless the practitioner obtains a signed waiver from the patient.

The waiver shall be in the following form:

#### WAIVER

I have responded to an advertisement for a free examination or initial consultation with Dr. \_\_\_\_\_ D.C. Dr. \_\_\_\_\_ has explained to me that, pursuant to the regulations of the New Jersey Board of Chiropractic Examiners, he or she cannot charge for any service rendered during a period of 24 hours from the time he or she gives me the free examination or consultation examination or consultation unless there is an immediate need for services and I sign this waiver.

I have what I believe is a need for immediate chiropractic care. Therefore, I agree to sign this waiver and to pay for the immediate chiropractic care rendered within the 24-hour period. The amount Dr. \_\_\_\_\_ will charge me for chiropractic care is \_\_\_\_\_. This figure was written on the line before I signed this waiver.

I have been given a copy of this waiver by Dr. \_\_\_\_\_ or someone from his or her office. If I have any concerns, I can write to the New Jersey State Board of Chiropractic Examiners at PO Box 45004, Newark, NJ 07101.

Patient's signature \_\_\_\_\_

Patient's name printed \_\_\_\_\_

Date \_\_\_\_\_

(h) An advertisement may contain either a lay or expert testimonial, provided that such testimonial is based upon personal knowledge or experience obtained from a provider relationship with the licensee or direct personal knowledge of the subject matter of the testimonial. A lay person's testimonial shall not attest to any technical matter beyond the testimonial giver's competence to comment upon. An expert testimonial shall be rendered only by an individual possessing specialized expertise sufficient to allow the rendering of a bona fide statement or opinion. An advertiser shall be able to substantiate any objective, verifiable statement of fact appearing in the testimonial.

(i) All licensee advertisements and public representations shall contain the name and address or telephone number of the licensee, professional service corporation or trade name under which the practice is conducted and shall also

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set forth the name of at least one licensee responsible for the chiropractic practice in the facility identified in the advertisement and/or public representation.

(j) A licensee shall be presumed to have approved and shall be personally responsible for the form and contents of an advertisement which contains the licensee's name, office address, or telephone number. A licensee who employs or allows another to employ for his or her benefit an intermediary source or other agent in the course of advertising shall be personally responsible for the form and contents of said advertisement.

(k) A video or audio tape of every advertisement communicated by electronic media shall be retained by the licensee and made available for review upon request by the board or its designee.

(l) A licensee shall retain a copy of all advertisements for a period of three years. All advertisements in the licensee's possession shall indicate the accurate date and place of publication and/or dissemination.

#### 13:44E-2.2 Patient records

(a) A contemporaneous, permanent patient record shall be prepared and maintained by a licensee for each person seeking chiropractic services, regardless of whether any care is actually rendered or whether any fee is charged. Licensees also shall maintain records relating to billings made to patients and third party carriers for professional services. All patient records, bills and claim forms shall accurately reflect the care or services rendered. Such records shall include, as a minimum:

1. The name, address, and date of birth of the patient and, if a minor, the name of the parent or guardian;
  2. The patient complaint/reason for visit;
  3. A pertinent case history;
  4. Findings on appropriate examination;
  5. Diagnosis/analysis;
  6. A care plan;
  7. Any orders for tests or consultations including the clinical indications and the results thereof;
  8. The dates of each patient visit;
  9. A description of care or services rendered at each visit together with the name of the licensee or other person rendering the care;
  10. Notation of significant changes in patient's condition and/or significant changes in care plan;
  11. Periodic notation of patient status regardless of whether significant changes have occurred; and
  12. An itemized statement of the amount billed and received on patient's account.
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(b) Patient records, including all radiographs and other diagnostic findings, shall be maintained for at least seven years from the date of the last entry. In the case of a minor child, records shall be kept for seven years from the date of the last entry or seven years from the date of majority, whichever is later.

(c) All radiographs shall be labeled, as a minimum, with the following identifying information:

1. The name of patient;
2. The date of radiograph;
3. The age of patient and/or date of birth;
4. The name of facility; and
5. Right or left identity.

(d) Licensees shall provide access to patient records to the patient or the patient's authorized representative in accordance with the following:

1. The name of patient;
2. Except where the complete record is required by applicable law, the licensee may elect to provide a summary of the record, as long as that summary accurately reflects the patient's history and care, where the written request comes from an insurance carrier or its agent with whom the patient has a contract which provides that the carrier be given access to records to assess a claim for monetary benefits or reimbursement.
3. The age of patient and/or date of birth;
4. A licensee may refuse to release a record to a patient if, in the exercise of professional judgment, a licensee has reason to believe that the patient may be harmed by release of the subjective information contained in the patient record or a summary thereof. The record or the summary, with an accompanying notice setting forth the reasons for the original refusal, shall nevertheless be provided upon request of and directly to:
  - i. The patient's attorney;
  - ii. Another licensed health care professional; or
  - iii. The patient's health insurance carrier.
5. Right or left identity.

(e) Licensees shall maintain the confidentiality of patient records, except that:

1. Upon receipt of a written request from a patient or an authorized representative and within 30 days thereof, legible copies of the patient record including, if requested, copies of radiographs, shall be furnished to the patient or an authorized representative or another designated health care provider. To the extent that the record is illegible or prepared in a language other than English, the licensee shall provide a typed transcription and/or translation at no cost to the patient.
  2. The licensee, in the exercise of professional judgment and in the best interests of the patient (even absent the patient's request), may release pertinent information about the patient's care to another licensed health care professional who is providing or who has been asked to provide care to the patient, or whose expertise may assist the licensee in his or her rendition of professional services.
  3. A licensee shall provide copies of records in a timely manner to a patient or another designated health care provider where the patient's continued care is contingent upon their receipt. The licensee shall not refuse to
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provide a patient record on the grounds that the patient owes the licensee an unpaid balance if the record is needed by another health care professional for the purpose of rendering care.

(f) Where a third party or entity has requested examination or an evaluation of a person for a purpose unrelated to care by the examiner and where a report of the examination is to be supplied to the third party, the licensee rendering those services shall prepare appropriate records and maintain their confidentiality, except to the extent provided by this section. The licensee's report to the third party relating to the patient shall be made part of the record. The licensee shall:

1. Assure that the scope of the report is consistent with the request, to avoid the unnecessary disclosure of diagnoses or personal information which is not pertinent;
2. Forward the report to the individual entity making the request and in accordance with the terms of the patient's authorization; if no specific individual is identified, the report should be marked "Confidential"; and
3. Should the examination disclose abnormalities or conditions not known to the patient, the licensee shall advise the patient to consult another health care professional for treatment.

(g) If a licensee ceases to engage in practice or it is anticipated that he or she will remain out of practice for more than three months, the licensee or a designee shall:

1. Establish a procedure by which patients can obtain patient records or acquiesce in the transfer of those records to another licensee or health care professional who is assuming the responsibilities of that practice;
2. If the practice is unattended by another licensee, publish a notice of the cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the licensee's practice, at least once each month for the first three months after the cessation;
3. File a notice of the established procedure for the retrieval of records with the Board of Chiropractic Examiners; and
4. Make reasonable efforts to directly notify any patient treated during the six months preceding the cessation in order to provide information concerning the established procedure for the retrieval of records.

#### 13:44E-2.3 Sexual misconduct

By this section, the State Board of Chiropractic Examiners is identifying for its licensees conduct which it shall deem to be violative of law.

As used in this section, the following terms have the following meanings unless the context indicates otherwise:

1. "Licensee" means any person licensed to engage in the practice of chiropractic as regulated by the State Board of Chiropractic Examiners.
  2. "Patient" means any person who is the recipient of a professional service rendered by a licensee for the purposes of diagnosis, care or a consultation relating to chiropractic care. "Patient" for purposes of this section also means
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a person who is the subject of professional examination even if the purpose of that examination is unrelated to care.

3. “Patient-chiropractor relationship” means an association between a chiropractor and patient wherein the licensee owes a continuing duty to the patient to be available to render professional services consistent with his or her chiropractic training and experience. The performance of any professional chiropractic service includes, but is not limited to, any consultation, examination, and care provided by a licensee in furtherance of chiropractic care or consultation.

4. “Sexual contact” means the knowing touching of a person’s body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee’s own prurient interest or for sexual arousal or gratification. “Sexual contact” includes, but is not limited to, the imposition of a part of the licensee’s body upon a part of the patient’s body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or patient’s body into or near the genital, anal or other opening of the other person’s body.

“Sexual contact” does not include the touching of a patient’s body which is necessary during the performance of a generally accepted and recognized chiropractic technique.

5. “Sexual harassment” means solicitation of any sexual act, physical advances, or verbal or nonverbal conduct that is sexual in nature, and which occurs in connection with a licensee’s activities or role as a provider of chiropractic services, and that either: is unwelcome, offensive to a reasonable person, or creates a hostile workplace environment, and the licensee knows, should know, or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. “Sexual harassment” may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to, conduct of a licensee with a patient, co-worker, employee, student or supervisee whether or not such individual is in a subordinate position to the licensee.

6. “Spouse” means the husband, wife or fiancée of the licensee or an individual involved in a long-term committed relationship with the licensee.

i. For purposes of this section, a long-term committed relationship means a relationship which is at least six months in duration.

(c) A licensee shall not engage in sexual contact with a patient with whom he or she has a patient-chiropractor relationship. The patient-chiropractor relationship is considered ongoing for purposes of this section, unless:

1. Professional services are terminated, by way of written notice to the patient and documentation in the patient record; or
2. The last professional service was rendered more than three months ago.

(d) A licensee shall not seek or solicit sexual contact with a patient with whom he or she has a patient-chiropractor relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.

(e) A licensee shall not engage in any discussion of an intimate sexual nature with a patient, unless that discussion is related to legitimate patient needs. Such discussion shall not include disclosure by the licensee of his or her own intimate sexual relationships.

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(f) A licensee shall provide privacy and examination conditions which prevent the exposure of the unclothed body of the patient unless necessary to the professional chiropractic services being rendered.

(g) A licensee shall not engage in sexual harassment in a professional setting while performing in a professional capacity.

(h) A licensee shall not engage in any other activity which would lead a reasonable person to believe that the activity serves the licensee's personal prurient interests or is for the sexual arousal, or sexual gratification of the licensee or patient or which constitutes an act of sexual abuse.

(i) Violation of any of the prohibitions or directives set forth at (c) through (h) above shall be deemed to constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(j) Nothing in this section shall be construed to prevent a licensee from rendering any professional chiropractic service to a spouse, providing that the rendering of such service is consistent with accepted standards of chiropractic care and that the performance of chiropractic services is not utilized to exploit the patient spouse for the sexual arousal or sexual gratification of the licensee.

(k) It shall not be a defense to any action under this section that:

1. The patient solicited or consented to sexual contact with the licensee; or
2. The licensee was in love with or had affection for the patient.

#### 13:44E-2.4 Chiropractor of record; fee reimbursement

(a) Each patient in a chiropractic facility shall have a chiropractor of record who shall remain primarily responsible for assuring the proper implementation of the chiropractic services to be rendered to such patient regardless of whether the services are rendered by the chiropractor of record or by any other person rendering chiropractic services or ancillary care to the patient.

(b) The name of the chiropractor of record shall be conspicuously identified on the patient record. If the chiropractor of record is not identified on the patient record, it shall be presumed that the chiropractor of record is the owner of the practice in which the patient received care.

(c) Each chiropractor or any other person rendering services shall sign or initial each entry on the patient record pertaining to the services he or she provided. If no such entry appears on the patient record, it shall be presumed that such service was rendered by the chiropractor of record, unless the chiropractor of record establishes the identity of the individual who provided such services.

(d) In a multi-chiropractor practice, the chiropractor of record shall remain the chiropractor for a patient until a subsequent chiropractor affirmatively notes in the patient record that he or she is currently the chiropractor of record. In the event that the chiropractor of record leaves the practice, a successor chiropractor shall be designated if the patient elects to continue treatment in the facility.

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(e) A new chiropractor of record shall review the patient's history and chiropractic records, examine the patient, if necessary, and either develop a new treatment plan or continue the pre-existing plan.

(f) Any chiropractor found to have rendered services in violation of N.J.S.A. 45:1-21 and the owner of the facility in which the licensee render such services shall be jointly and severally responsible for any restoration of patient fees as may be ordered by the Board.

#### 13:44E-2.5 Fee schedule

(a) The following fees shall be charged by the Board:

- |   |                    |
|---|--------------------|
| 1. Application Fee .....                                | \$125.00           |
| 2. Endorsement Fee .....                                | 75.00              |
|   | (plus initial fee) |
| 3. Initial Fee:   |                    |
| i. During the first year of a biennial renewal period   |                    |
| ii. During the second year of a biennial renewal period |                    |
| 4. Biennial License Renewal Fee .....                   | 350.00             |
| 5. Duplicate License Fee .....                          | 25.00              |
| 6. Verification of Licensure Fee .....                  | 40.00              |
| 7. Late Renewal Fee .....                               | 50.00              |
| 8. Reinstatement Fee .....                              | 125.00             |

#### 13:44E-2.6 Referral fees

It shall be professional misconduct for a licensee to pay, offer to pay, or to receive from any person any fee or other form of compensation for the referral of a patient. This section shall not prohibit the division of fees among licensees engaged in a bona fide employment, partnership or corporate relationship for the delivery of professional services.

#### 13:44E-2.6A Patient record review

(a) As used in this section, the term, "patient record review" means an evaluation of all records which are maintained pursuant to N.J.A.C. 13:44E-2.2 and which are relevant to the treatment or condition under evaluation by a non-attending chiropractor with regard to the effectiveness and application of prior treatment or termination of or continuation of the treatment.

(b) A non-attending chiropractor who performs a patient record review which evaluates prior chiropractic care or the need for continued chiropractic care or the necessity for diagnostic testing shall make a reasonable and documented effort to obtain all records of the attending chiropractor relevant to the chiropractic care or condition under evaluation before rendering an opinion concerning the prior chiropractic care, the need for continued chiropractic care or the need for diagnostic testing.

(c) An opinion by a non-attending chiropractor which states that prior chiropractic care was not documented pursuant to N.J.A.C. 13:44E-2.2 shall clearly note the specific deviations from the patient record requirements of N.J.A.C. 13:44E-2.2.

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(d) Opinions which state that prior chiropractic care was not necessary, not required or palliative shall clearly state the rationale upon which the opinion is based.

(e) (Reserved)

(f) An opinion by a non-attending chiropractor that diagnostic testing, referrals or consultations were not properly documented or performed in accordance with N.J.A.C. 13:44E-2.2 and 13:44E-3 shall clearly note the specific deviations from those rules.

(g) Opinions which state that prior diagnostic testing, referrals or consultations were not necessary shall clearly state the rationale upon which the opinion is based.

(h) Any opinion rendered regarding the evaluation of prior chiropractic care, the termination of chiropractic care, or the necessity of diagnostic testing and/or referrals or consultation shall be consistent with N.J.S.A. 45:9-14.5 and N.J.A.C. 13:44E-1.1. Violations of any of the provisions set forth in this section shall constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e) and may subject licensees to penalties as set forth in N.J.S.A. 45:1-22 and 45:1-25.

#### 13:44E-2.7 Delegable tasks or functions of unlicensed assistants

(a) The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

1. "Direct supervision" means the ongoing process performed by a licensed chiropractor who monitors the performance of the unlicensed assistant and provides regular consultation, guidance and instruction with respect to the tasks and functions performed by the unlicensed assistant. Direct supervision requires that the licensed chiropractor be physically present on the premises from which chiropractic services are rendered at all times during which an unlicensed individual is engaged in delegated tasks or functions.

2. "Unlicensed assistant" means any person including a student or graduate of a chiropractic institution, who does not hold a valid New Jersey chiropractic license, or a license, certification or registration issued pursuant to law which authorizes the performance of acts which, absent such authorization, would be unlawful.

(b) Under the direct supervision of, and when delegated by, a licensed chiropractor, an unlicensed assistant, including a graduate of a recognized program of study in chiropractic, may perform tasks or functions including, but not limited to, the following:

1. Completing a medical history of a patient;
  2. Preparing the patient for chiropractic care;
  3. Writing into the patient record subjective complaints from the patient and objective findings provided by the licensee;
  4. Performing a urinary dipstick analysis;
  5. Taking and recording vital signs;
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6. Preparing and developing X-ray films;
7. Providing patient education activities;
8. Providing instruction in activities of daily living; and
9. Administering cryotherapy, hot packs, mechanical traction and non-invasive surface screening.

(c) A licensee shall not permit an unlicensed assistant to:

1. Examine, diagnose or analyze a patient;
2. Perform massage;
3. Take X-rays (unless permitted by license issued by the Department of Environmental Protection);
4. Perform a chiropractic adjustment;
5. Administer the following physical modalities:
  - i. Ultraviolet (B and C bands) or electromagnetic rays including, but not limited to, deep heating agents, microwave diathermy, short-wave diathermy and ultrasound; or
6. Perform any task or function for which the skill, training and judgment of a licensed chiropractor is required to safely and competently perform such task or function.

(d) A licensee who permits an unlicensed assistant to perform any task or function incidental to the rendering of chiropractic care shall:

1. Be responsible for the performance of all delegated tasks or functions performed by such individual;
2. Directly supervise the unlicensed assistant; and
3. Ensure that such individual is competent to perform all delegated tasks or functions. The licensee shall provide any instruction or training necessary to ensure competence and shall make such inquiry as may be necessary to ensure that a satisfactory level of education exists so as to conclude that the unlicensed individual may render any delegated tasks or functions with reasonable skill and safety.

(e) The licensee shall write all instructions for duties to be performed by unlicensed assistants on the patient's chart and shall make the chart available at all times to the unlicensed assistant carrying out the instructions.

(f) Prior to the performance of any delegated tasks or functions by an unlicensed assistant, the unlicensed assistant shall determine whether the patient's physical status has materially changed since the patient's prior office visit. In such event, the unlicensed assistant shall not proceed with the performance of any delegated tasks or functions until the licensee has reexamined the patient or authorized the performance of a delegated task or function.

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### 13:44E-2.8 Notification of change of address; service of process

(a) A licensee of the Board of Chiropractic Examiners shall notify the Board in writing of any change of address from the address currently registered with the Board and shown on the most recently issued certificate. Such notice shall be sent to the Board by certified mail, return receipt requested, not later than 10 days following the change of address.

(b) Service of an administrative complaint or other Board-initiated process at a licensee's address currently on file with the Board shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

### 13:44E-2.9 Display of license

Each person holding a license to practice chiropractic in the State of New Jersey shall display the license and the current renewal certificate in a conspicuous place in his or her principal office or place of practice. In addition, the licensee shall display a duplicate issued by the Board of the current renewal certificate in all other facilities where the licensee practices.

### 13:44E-2.10 Right to a hearing

Prior to any suspension, revocation or refusal to renew a license, the licensee shall have the right to request a hearing which shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

### 13:44E-2.11 Overutilization; excessive fees

(a) A licensee shall not directly or indirectly engage in the rendering of any bill or the submission of any claim for service which:

1. Is not justified by the needs of the patient;
  2. Is for any diagnostic or treatment services, goods or appliances which are excessive in quality or quantity;
  3. Represents multiple charges for the same chiropractic services or care, goods or appliances;
  4. Contains an excessive fee. A fee is excessive when, after a review of the facts, a licensee of ordinary prudence would be left with a definite and firm conviction that the fee is so high as to be manifestly unconscionable or overreaching under the circumstances. The charging of an excessive fee shall constitute professional misconduct pursuant to N.J.S.A. 45:1-21. Factors which may be considered in determining whether a fee is excessive include, but are not limited to, the following:
    - i. The time and effort required;
    - ii. The novelty and difficulty of the procedure or chiropractic care;
    - iii. The skill required to perform the procedure or chiropractic care
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properly;

iv. Any requirements or conditions imposed by the patient or by circumstances;

v. The nature and length of the professional relationship with the patient;

vi. The experience, reputation and ability of the licensee performing the services; and/or

vii. The nature and circumstances under which services are provided.

5. Is for services, goods or appliances which were not rendered or supplied; or

6. Is for a charge or claim which, due to the presence of insurance coverage, exceeds the usual and customary charges for such services, goods or appliances for patients who do not have insurance coverage.

#### 13:44E-2.12 Referral of patients to physical therapists

(a) A chiropractor providing physician direction for the initiation of physical therapy treatment by a physical therapist shall supply the physical therapist with the following information in writing:

1. The name of the patient;

2. The printed name of the referring chiropractor, including office address and phone number;

3. The signature of the chiropractor and the date;

4. The purpose of referral (for example, “physical therapy examination and treatment”); and

5. The spinal component of patient’s problem.

(b) The referring chiropractor may verbally supply this information provided that a written confirmation is forwarded to the physical therapist within two weeks.

(c) After the physical therapist has completed the physical therapy examination and evaluation, the referring chiropractor shall consult with the physical therapist to:

1. Clarify any divergent assessments that the referring chiropractor and physical therapist may have made regarding the patient’s needs;

2. Coordinate care and/or treatment programs in the event that the patient receives concurrent chiropractic and physical therapy. Any such concurrent care and/or treatment programs shall be compatible; and

3. Jointly determine a schedule of additional consultation that will allow the referring chiropractor to monitor the patient’s on-going plan of care.

(d) The referring chiropractor shall document the initial and on-going consultation with the physical therapist in the patient’s record.

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## 13:44E-2.13 Chiropractic examination

(a) Effective January 1, 2001, to obtain a license to practice chiropractic, a candidate shall successfully pass:

1. Parts I, II, III and IV of the National Board of Chiropractic Examiners Examination; and
2. The New Jersey State Board of Chiropractic Examiners written jurisprudence examination.

(b) The Board shall hold the New Jersey State Board of Chiropractic Examiners Jurisprudence Examination no less than twice per year at a date, time, and place designated by the Board.

(c) An applicant licensed in another state who seeks licensure by endorsement shall successfully pass the written jurisprudence examination administered by the New Jersey State Board of Chiropractic Examiners.

## 13:44E-2.14 (Reserved)

## 13:44E-2.15 (Reserved)

**SUBCHAPTER 3. DETERMINATIONS WITH RESPECT TO THE VALIDITY OF CERTAIN  
DIAGNOSTIC TESTS, SPECIAL REQUIREMENTS FOR ELECTRODIAGNOSTIC TESTS AND  
OTHER SPECIAL EXAMINATIONS**

## 13:44E-3.1 Definitions

As used in this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

“Board” means the New Jersey State Board of Chiropractic Examiners.

“Chiropractic physician” means a chiropractor holding a license issued by the New Jersey State Board of Chiropractic Examiners.

“Clinically supported” means that a chiropractic physician, prior to selecting, performing or ordering the administration of a diagnostic test has:

1. Personally performed a physical examination, making an assessment of any current and/or historical subjective complaints, observations, objective findings, or neurological indications;
  2. Considered any and all previously performed tests relating to the patient’s clinical condition and the results; and
  3. Documented in the patient record positive and negative findings, observations and clinical indications to justify the test.
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“Diagnostic test” means a professional service utilizing biomechanical, neurological, neurodiagnostic, radiological, vascular or any means, other than bioanalysis, intended to assist in establishing a diagnosis, for the purpose of recommending a course of treatment for the tested patient to be implemented by a chiropractic physician or other treating practitioner.

“Electrodiagnostic test” means a diagnostic test utilizing electrical current to measure and record electrical irritability, but is not intended to include surface electromyography (SEMG).

“Medical doctor” means an allopathic or osteopathic physician holding a plenary license issued by the New Jersey State Board of Medical Examiners. “Clinically supported” means that a chiropractic physician, prior to selecting, performing or ordering the administration of a diagnostic test has:

1. Personally performed a physical examination, making an assessment of any current and/or historical subjective complaints, observations, objective findings, or neurological indications;
2. Considered any and all previously performed tests relating to the patient’s clinical condition and the results; and
3. Documented in the patient record positive and negative findings, observations and clinical indications to justify the test.

“Diagnostic test” means a professional service utilizing biomechanical, neurological, neurodiagnostic, radiological, vascular or any means, other than bioanalysis, intended to assist in establishing a diagnosis, for the purpose of recommending a course of treatment for the tested patient to be implemented by a chiropractic physician or other treating practitioner.

“Electrodiagnostic test” means a diagnostic test utilizing electrical current to measure and record electrical irritability, but is not intended to include surface electromyography (SEMG).

“Medical doctor” means an allopathic or osteopathic physician holding a plenary license issued by the New Jersey State Board of Medical Examiners.

“Normal” or “normally” means the usual, routine, customary or common experience and conclusion, which may in unusual circumstances differ from the actual judgment or course of treatment. The unusual circumstances shall be based on clinically supported findings of a chiropractic physician. The use of these terms is intended to indicate some flexibility and avoid rigidity in the application of these rules and to recognize the good faith educated judgment of a chiropractic physician.

“Practitioner” means a licensee of a professional board authorized to render health care services, including, but not limited to, chiropractic physicians, medical doctors, podiatric physicians, physical therapists and registered professional nurses.

“Significant beneficial interest” means any financial interest but does not include ownership of a building wherein the space is leased to a person at the prevailing rate under a straight lease agreement or any interest held in publicly traded securities.

“Special examination” means a diagnostic test, other than electrodiagnostic test, which is not routinely utilized by chiropractic physicians in the course of ordinary practice, such as specialized imaging studies. “Special examination”

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does not include x-rays, computer-supported range of motion testing, applied kinesiology, gait analysis, postural analysis tests or muscle testing devices, such as Dynatron or Cyber station.

13:44E-3.2 Recognized diagnostic tests; permissible billing

(a) Consistent with the scope of practice, upon the attainment of education and training in the pertinent test and, with respect to electrodiagnostic tests or special examinations, a certificate of competency, a chiropractic physician may perform a diagnostic test and charge a patient or third party payor for that test, except as provided by (b) and (c) below.

(b) A chiropractic physician shall not bill for any diagnostic tests which have not been reliably demonstrated to identify conditions amenable to chiropractic care beyond the information ascertainable from the taking of a patient history and performance of a thorough clinical examination or which otherwise fail to yield data of sufficient clinical value in the development, evaluation or implementation of a plan of treatment, including the following:

1. Spinal diagnostic ultrasonography/ultrasound imaging of the spine;
2. Current perception threshold tests;
3. Iridology;
4. Reflexology; or
5. Surrogate arm mentoring.

(c) A chiropractic physician may bill for any of the following diagnostic tests which have recognized reliability and validity and can yield data of sufficient clinical value in the development, evaluation or implementation of a plan of treatment, when clinically supported, subject to the limitations noted:

1. Repetitive stimulation studies including reflex latency measurements such as F-wave studies, H-reflexes and sympathetic skin responses;
  2. Somatosensory evoked potential (SSEP), visual evoked potential (VEP) auditory evoked potentials (AEP), brainstem auditory evoked potential (BAEP) and dermatome evoked potential, or brain evoked potential (BEP) where the extent of response to treatment is not otherwise sufficiently ascertained from subjective reports and by objective findings or other diagnostic tests;
  3. Thermography only when used to evaluate pain associated with reflex sympathetic dystrophy (“RSD”) in a controlled setting;
  4. Videofluoroscopy only in the evaluation of hypomobility syndrome and wrist/carpal hypomobility, where there are findings of no range or aberrant range of motion or dysymmetry of facets;
  5. Surface EMG;
  6. Applied kinesiology and gait analysis; and
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7. Computer-supported range of motion tests, postural analysis tests or muscle testing devices, such as Dynatron or Cyber station.

(d) Notwithstanding any limitations set forth in (b) above, a chiropractic physician may perform the enumerated diagnostic test, after assuring that written informed consent has been obtained from the patient, but in no case shall the patient or third party payor be billed or charged for the test.

#### 13:44E-3.3 Referable tests

(a) A chiropractic physician shall not perform the following, but may refer a patient to an appropriately trained medical doctor for the purpose of undergoing:

1. Needle electromyography (needle EMG) for the evaluation and diagnosis of neuropathies and radicular syndrome where clinically supported findings reveal a loss of sensation, numbness or tingling; or

2. Any test requiring administration of medication for effective performance.

#### 13:44E-3.4 Basic pre-test prerequisites and standards for patient evaluation applicable to electrodiagnostic tests and special examinations

(a) A chiropractic physician performing, requesting or interpreting electrodiagnostic tests and special examinations shall:

1. Adhere to accepted standards of practice applicable to the performance of such tests, relating to clinical justification, reliability, validity, performance technique, interpretation and integration into the plan of treatment;

2. Ensure that tests, if performed by a chiropractic physician, are performed personally or under his or her immediate personal supervision and direction; and

3. Assure that professionally responsible and scientifically sequential pre-testing determinations are followed.

(b) A chiropractic physician contemplating the performance of electrodiagnostic tests and other special examinations with respect to a specific patient shall first:

1. Take and document in the patient record a history of the patient's clinical condition, reflecting:

i. Responses to inquiries regarding prior disease, trauma, surgery, prior and current medications prescribed by other practitioners, use of orthopedic devices and other relevant information, as applicable to the patient's situation;

ii. Factors which may be contributing to the patient's pain, sensory or motor complaints; and

iii. Pertinent information such as the patient's current height and weight, employment (including physical requirements, whether in or outside the home) and relevant aspects of required work effort, known injuries, testing performed and results, care received, response and other factors which may be relevant to the patient's condition;

2. Perform and document in the patient record a clinical examination including subjective complaints, observations, objective findings from a neurologically oriented physical examination, tests performed and their results including

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x-ray interpretation, interpretive reports of imaging studies acquired from any source, and interpretive reports of any other testing;

3. Establish and document in the patient record a provisional diagnosis and plan of care;
4. Prepare and document in the patient record ongoing progress notes reflecting subjective complaints, objective findings, treatment provided, and the patient's objective and subjective response to the treatment provided; and
5. Discuss with the patient appropriate alternatives and options, including referral to another practitioner or specialist for consultation and evaluation.

(c) A chiropractic physician who has complied with the requirements of (b)1 through 5 above may perform electrodiagnostic tests or special examinations, if the results of tests selected are expected to:

1. Alter the course of the patient's treatment;
2. Aid in determining the extent of functional deficit present; and
3. Be useful in the assessment of deterioration or improvement of a condition for the purpose of continued care.

(d) A chiropractic physician who has complied with the requirements of (b)1 through 5 above may refer a patient to another chiropractic physician or other appropriately licensed and trained practitioner to determine the need for, and the performance and interpretation of, an electrodiagnostic test or a special examination by means of a request for professional consultation, provided the referring chiropractic physician:

1. Thoroughly documents in the patient record an appropriate scientific rationale for the referral; and
2. Directly communicates with the practitioner who is to perform the test prior to the referral, as is professionally appropriate in the circumstances.

13:44E-3.5 Educational prerequisites applicable to electrodiagnostic tests and special examinations; certificate requirement

(a) A chiropractic physician seeking to perform electrodiagnostic tests and special examinations shall:

1. Be trained and skilled in the knowledge of:
    - i. The physiology and topographical anatomy of the peripheral and trunk musculature and of the peripheral and central nervous systems;
    - ii. Pathology as contrasted with normal presentation of peripheral nerve and muscle tissue;
    - iii. Clinical presentation of various neurological disorders and of neuropathological dysfunction of central and peripheral pathways and in the treatment protocols of tests pertinent to such conditions;
    - iv. Electrodiagnosis as pertinent to an understanding of instrumentation and laboratory parameters for the testing and interpretation of the test in question;
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- v. Laboratory hygiene and sterile technique to prevent transmission of infectious diseases;
  - vi. Technical procedures necessary to ensure proficiency in performance of the test to be utilized; and
  - vii. The precepts of ethical practice so as to limit test utilization to the patient's best interests.
2. Successfully complete (and retain certification of completion of) a training course in the pertinent tests, approved by the Board:
- i. Offered on the college premises of an accredited college recognized by the New Jersey State Board of Chiropractic Examiners; or
  - ii. Received in a postgraduate program sponsored by a college of chiropractic recognized by Council of Chiropractic Education; and
3. Within 60 days of the applicant's receipt of an application form, submit to the Board the completed application form seeking approval of the undergraduate or postgraduate course referred to in (a)2 above, along with a one-time fee of \$50.00 pursuant to N.J.A.C. 13:44E-2.5, which the Board shall act upon within 90 days of its receipt of the application.
- (b) A chiropractic physician whose training has been obtained prior to March 1, 1999 shall, by March 31, 1999, submit to the Board an application for approval by evaluation of equivalency of training and competency. Chiropractic physicians who have performed electrodiagnostic tests and special examinations prior to March 1, 1999, who have filed a timely application with the Board, may continue to perform such tests pending Board action on the application.
- (c) A chiropractic physician performing or offering to perform electrodiagnostic tests or special examinations shall comply with the applicable heightened standards of accepted practice for practitioners engaged in like professional conduct. A chiropractic physician performing or offering to perform electrodiagnostic testing who does not fully comply with all requirements set forth in this section may be found to be engaging in misrepresentation, deception, gross or repeated malpractice or negligence or incompetence, professional misconduct, and/or any other disciplinary ground authorized by applicable law or rules.
- (d) A chiropractic physician seeking to utilize experimental equipment or procedures for research purposes shall:
- 1. Secure the prior written approval of the Board;
  - 2. Obtain the informed consent of the patient; and
  - 3. Not charge or bill the patient or third party payor for the service.
- (e) A chiropractic physician performing electrodiagnostic tests or special examinations shall familiarize himself or herself with contemporary professional journals and with scholarly texts to maintain current accepted standards of practice in the profession and in the specialty.

(a) Both the chiropractic physician who has requested the performance of an electrodiagnostic test or special examination and the chiropractic physician performing such test shall provide the patient with a written description of the test addressing the risks involved in disorders in homeostasis, infectious diseases, and contraindications for electrodiagnostic testing, for example, the presence of a pacemaker, if pertinent.

(b) A chiropractic physician shall ensure that all equipment used in the performance of electrodiagnostic tests and special examinations:

1. Is capable of performing its designated task efficiently, for the benefit to the patient;
2. Is maintained in proper working order to assure safety; and
3. Is inspected, at least once each year (or more frequently if required by law or recommended by the manufacturer) to maintain quality of performance and calibration, with documentation of such inspections retained for seven years from the date of last entry, or until disposal of the equipment.

(c) A chiropractic physician performing an electrodiagnostic test or special examinations shall:

1. Personally perform a physical examination which examination also specifically focuses on the orthopedic neuromuscular condition for which the testing has been recommended;
2. Ascertain the reliability and validity of the testing performed;
3. Not repeat such testing except when a prior result on the specific limb was positive, that is, demonstrated pathology amenable to chiropractic care, and then only at scientifically reasonable intervals, or when clinically supported by significant objective documentation;
4. Document the decision-making process in the patient record; and
5. Provide a report as required by N.J.A.C. 13:44E-3.8 to the chiropractic physician who requested the performance of the electrodiagnostic test or special examination.

#### 13:44E-3.7 Use of testing assistant

(a) When using an assistant or other person, whether or not licensed in a health care profession, to provide technical assistance in performance of an electrodiagnostic test or special examination, a chiropractic physician shall:

1. Ascertain the assistant's competence;
  2. Review the appropriateness and quality of services provided by the assistant;
  3. Remain in the room during the performance of the test;
  4. Make all professional decisions with respect to the testing;
  5. Directly supervise the testing at all times;
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6. Not be involved in the concurrent testing or supervision of testing of another patient; and
  7. Assure that the tasks performed by the assistant are fully documented in the patient record, along with the person's full name legibly printed.
- (b) If any fee, other than a regular salary paid to an employee, has been or shall be paid by the chiropractic physician to an assistant or other person, directly or indirectly, a full record of such fee and the basis therefor shall be prepared and maintained for seven years, and shall be subject to inspection by the State Board of Chiropractic Examiners, the Attorney General, or by the Director of the Division of Consumer Affairs.

13:44E-3.8 Preparation of test report; follow-up

- (a) A chiropractic physician who performs an electrodiagnostic test or special examination shall:
1. Prepare and retain a comprehensive report, on professional letterhead bearing the chiropractic physician's full name and license number, office name, address and telephone number, which report shall include at least the following:
    - i. The patient's name, case identification number, age, sex, height and weight, and dominant side;
    - ii. The date on which the test was performed;
    - iii. The location at which the test was performed;
    - iv. The date on which the report was prepared;
    - v. A description of the relevant clinical history, including the patient's problem and indication for the testing including the presenting symptoms and clinical signs, etiology of symptoms, history of other diagnostic tests performed and their outcomes;
    - vi. An identification of the specific test(s) performed and, if applicable, a full description of nerves or muscles sampled, acquisition parameters, appropriate technical attributes of the study such as limb temperature, sites of stimulation, recording of amplitudes and response, latency, configuration of wave forms, distances and velocities, as well as the criteria utilized to identify the reported abnormality;
    - vii. Data relevant to the test performance, reported in a manner such that another appropriately trained practitioner would be able to interpret the results or replicate the procedure;
    - viii. Interpretation and comments regarding normality or abnormality of the data which reflects the clinical significance of the data and describes the differential diagnosis and potential etiology for the findings made; and
    - ix. A statement of diagnostic conclusions and recommendations for appropriate treatment, to include referral to another specialist, if appropriate;

2. Ensure that if technical difficulties were encountered, the report addresses those difficulties, including but not limited to artifact production, non-compliance or agitation by the patient, edema, presence of deformity or scar tissue; and

3. Retain, as part of the patient record, any raw data or graphs arising out of a diagnostic test administration, in a form which shall be:

i. Appropriate to the test utilized, for example, copies of wave forms from nerve conduction studies and evoked potentials; and

ii. Available for hard copy review or submission to the Board request, as required by N.J.A.C. 13:44E-2.2.

(b) A chiropractic physician who has performed an electrodiagnostic test or special examination shall provide to the chiropractic physician who requested the test, in addition to the interpretive report required by (a) above, a representative sample of the wave forms or other raw data, as applicable to the particular test, for inclusion in the patient record.

(c) A chiropractic physician who has performed an electrodiagnostic test or special examination shall discuss the findings and recommendations with the patient or patient's representative, as applicable.

(d) A chiropractic physician who requested that another chiropractic physician perform electrodiagnostic test or special examination may request, with the patient's consent, a second opinion from another licensed chiropractic physician or medical doctor, trained and skilled in the performance and interpretation of electrodiagnostic tests. The patient shall not be caused to incur an additional charge for the second opinion unless the patient specifically consents or the patient's insurance carrier approves such expense as may be incurred. If the consultant to whom the patient is referred intends to charge for the consultation, neither that consultant nor the referring chiropractic physician shall have a significant beneficial interest in the practice of the other.

#### 13:44E-3.9 Limitations on referrals

(a) A chiropractic physician requesting that another chiropractic physician or other practitioner perform any diagnostic tests shall:

1. Comply with the limitations on lawful referral set forth in N.J.S.A. 45:9-22.4 et seq.;

2. Not refer a patient to another practitioner practicing at the same premises or at any space within or outside of the office or building, parking lot or other area in any mobile premises in the environs of the office or building, unless:

i. The patient record fully justifies the recommendation for evaluation;

ii. That other practitioner is a bona fide partner, fellow shareholder of a professional service corporation or other permitted practice structure, or a regularly salaried practitioner-employee of the chiropractic physician requesting the performance of a diagnostic test; and

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iii. The bill for professional services reflects the name of the practice entity and identity of the provider of service.

#### 13:44E-3.10 Fees

(a) The chiropractic physician performing a diagnostic test for which a charge is authorized, prior to performance of any such test, shall ensure:

1. That the patient has been informed of the anticipated fee for the professional service in a timely manner sufficient to allow the patient, who has the ultimate responsibility, to ascertain the financial responsibility for the procedure;
2. That the fee, whether global or totaled for both technical and professional components, be billed solely under the name of the chiropractic physician performing the test, or his/her office, consistent with billing practices applicable to other chiropractic services; and
3. That the fee shall not violate N.J.A.C. 13:44E-2.13 which prohibits excessive fees.

#### 13:44E-3.11 Application of prohibitions and limitations

Prohibitions or limitations on the permissible performance of tests as designated in this subchapter, or regarding billing for tests previously performed, shall be prospective with regard to rule compliance, but shall not limit the Board's authority to enforce the provisions of N.J.S.A. 45:1-14 et seq. and other applicable law and rules.

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## CHAPTER 45C UNIFORM REGULATIONS

### 13:45C-1.1 Applicability, scope and definitions

(a) This subchapter shall apply to all licensees of any board, committee or subunit within the Division of Consumer Affairs.

(b) For the purpose of this subchapter, “licensee” shall mean any licensee, permittee, certificate holder or registrant of:

1. The Division of Consumer Affairs;
2. Any professional or occupational licensing board within the Office of Professional/Occupational Boards and any committee, or other subunit of a board or committee located within the Division;
3. The Office of Consumer Protection; or
4. The Legalized Games of Chance Control Commission.

### 13:45C-1.2 Licensee’s duty to cooperate in investigative inquiries

(a) A licensee shall cooperate in any inquiry, inspection or investigation conducted by, or on behalf of, a board, the Director or the licensee’s licensing agency into a licensee’s conduct, fitness or capacity to engage in a licensed profession or occupation where said inquiry is intended to evaluate such conduct, fitness or capacity for compliance with applicable statutory or regulatory provisions.

(b) A licensee’s failure to cooperate, absent good cause or *bona fide* claim of a privilege not identified in N.J.A.C. 13:45C-1.5 as unavailable, may be deemed by the board, the Director, or the licensing agency to constitute professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e) or the agency’s enabling act and thus subject a licensee to disciplinary action pursuant to N.J.S.A. 45:1-21(h) or the agency’s enabling act.

### 13:45C-1.3 Specific conduct deemed failure to cooperate

(a) The following conduct by a licensee may be deemed a failure to cooperate and, therefore, professional or occupational misconduct and grounds for suspension or revocation of licensure:

1. The failure to timely respond to an inquiry to provide information in response to a complaint received concerning licensee conduct;
  2. The failure to timely provide records related to licensee conduct;
  3. The failure to attend any scheduled proceeding at which the licensee’s appearance is directed. In the event that a licensee elects to retain counsel for the purpose of representation in any such proceeding, it shall be the licensee’s responsibility to do so in a timely fashion. The failure of a licensee to retain counsel, absent a showing of good cause therefor, shall not cause an adjournment of the proceeding;
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4. The failure to timely respond or to provide information requested pursuant to a demand under N.J.S.A. 45:1-18 or other applicable law or to provide access to any premises from which a licensed profession or occupation is conducted. Included within this paragraph shall be the failure to respond to any demand for statement or report under oath, the failure to permit the examination of any goods, ware or item used in the rendition of the professional or occupational service and the failure to grant access to records, books or other documents utilized in the practice of the occupation or profession;
5. The failure to answer any question pertinent to inquiry made pursuant to N.J.S.A. 45:1-18 or other applicable law unless the response to said question is subject to a %bona fide%i claim of privilege;
6. The failure to make proper and timely response by way of appearance or production of documents to any subpoena issued pursuant to N.J.S.A. 45:1-18 or as may otherwise be provided by law; or
7. The failure to provide to the Board, the Director or the licensing agency timely notice of any change of address from that which appears on the licensee's most recent license renewal or application.

#### 13:45C-1.4 Failure to comply with Board orders as professional or occupational misconduct

The failure of a licensee to comply with an order duly entered and served upon the licensee or of which the licensee has knowledge shall be deemed professional or occupational misconduct.

#### 13:45C-1.5 Unavailability of privileges in investigative or disciplinary proceedings

(a) In any investigative inquiry conducted pursuant to N.J.S.A. 45:1-18 or in any disciplinary proceeding conducted pursuant to N.J.S.A. 45:1-21, or as may otherwise be authorized by law, the physician-patient privilege, psychologist-patient privilege, marriage and family therapist-client privilege, professional counselor-client privilege, associate counselor-client privilege, social worker-client privilege and the alcohol and drug counselor-client privilege shall be unavailable.

(b) Any statements or records otherwise subject to a claim of the stated privileges which may be obtained by the Board, its agent or the Attorney General pursuant to N.J.S.A. 45:1-18 shall remain confidential and shall not be disclosed unless so ordered by a court of competent jurisdiction, the appropriate licensing board or the Office of Administrative Law in a contested case.

#### 13:45C-1.6 Maintenance of and access to statements, records or other information that is subject to a privilege declared unavailable

(a) Any statements, records or other information which may be subject to any privilege declared unavailable in this subchapter shall be maintained in a secure place and manner by:

1. The evidence custodian within the Division of Consumer Affairs, Enforcement Bureau;
  2. The professional or occupational licensing board and the committee or other subunit of a board or committee located within the Division which has a direct connection with, or a need for access to, the matter to which the statements, records or other information pertain; or
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3. A Deputy Attorney General.

(b) Except as may be otherwise ordered as provided in the subchapter, access to statements, records or other information shall be afforded only to employees of the Attorney General, the Enforcement Bureau, or the Board or other subunit of the Division having a direct connection with, or a need for access to, the matter to which the statement, records or other information pertain.

(c) The statements, records or other information shall be retained only for the period of time during which an investigation remains open or until the completion of all administrative or judicial proceedings relating thereto, at which time they shall be returned to the licensee or other person from whom they were obtained. In the absence of such licensee or other person, the statements, records or other information shall be returned to the patient, where appropriate.

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